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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY J. GRISWOLD, WILLIAM R. DUTCHER,
and PATRICK J. CONLEY

Appeal 2007-3579
Application 09/930,445
Technology Center 2100

Decided: May 5, 2008

Before LANCE LEONARD BARRY, JAY P. LUCAS, and
ST. JOHN COURTEMAY III, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

A Patent Examiner rejected claims 1-9, 18-38, 47-68, and 77-93. The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

A. INVENTION

1 The invention at issue on appeal is a "WebNum system." (Spec. 1.) Wireless devices such as cell phones are able to access the Internet. To access a website via such a device a user may enter text characters that spell out a uniform resource locator ("URL"). Because a phone's keypad uses multiple letters for each numeric key, and many cell phones require the user to change the mode of operation to enter letters instead of numbers, such entry can be cumbersome. (*Id.*)

In contrast, the WebNum system specifies a numbering system that allows users to reach websites by entering numbers instead of URLs. A database maps each WebNum back to a URL, and interprets the WebNum as a pointer to an Internet resource. (*Id.* 2.)

B. ILLUSTRATIVE CLAIM

Claim 1, which further illustrates the invention, follows.

1. A method for accessing internet addresses based on a request from a wireless device, comprising:

receiving a transmitted short-name of a website that a user of the wireless device desires to access from said wireless device, said short-name comprising a code number representative of a particular internet address;

searching a database for said short-name, said database being located at a location remote from said wireless device; and

if said short-name is found, retrieving said particular internet address so that said wireless device can be connected to said particular internet address.

C. REJECTION

Claims 1-9, 18-38, 47-68, and 77-93 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,738,630 ("Ashmore").

II. CLAIM GROUPING

1 When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately.

37 C.F.R. § 41.37(c)(1)(vii) (2006).¹

Here, the Appellants argue claims 1-9, 18-38, 47-68, and 77-93, which are subject to the same ground of rejection, as a group. (App. Br. 4-5). We select claim 1 as the sole claim on which to decide the appeal of the group. "With this representation in mind, rather than reiterate the positions

¹ We cite to the version of the Code of Federal Regulations in effect at the time of the Appeal Brief. The current version includes the same rules.

of the parties *in toto*, we focus on the issue therebetween." *Ex parte Nikoonahad*, No. 2006-3247, 2007 WL 1591636, at *2 (BPAI 2007).

III. ISSUE

The Examiner finds, "Ashmore discloses that the user of a mobile device may transmit a short-name . . . to access a website. (See Ashmore, Column 2, lines 10-17 and lines 49- 56)." (Ans. 8.) The Appellants argue that "the cited portions do not disclose a short-name of a website comprising a code number representative of a particular internet address as recited in the claims." (Reply Br. 2.) Therefore, the issue is whether Ashmore discloses a code number representing an Internet address.

IV1. ANALYSIS

"[A]nticipation is a question of fact." *In re Hyatt*, 211 F.3d 1367, 1371-72 (Fed. Cir. 2000) (citing *Bischoff v. Wethered*, 76 U.S. (9 Wall.) 812, 814-15 (1869); *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997)). "A reference anticipates a claim if it discloses the claimed invention 'such that a skilled artisan could take its teachings in *combination with his own knowledge of the particular art and be in possession of the invention*.'" *In re Graves*, 69 F.3d 1147, 1152 (Fed. Cir. 1995) (quoting *In re LeGrice*, 301 F.2d 929, 936 (CCPA 1962)). Of course, anticipation "is not an 'ipsissimis verbis' test." *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990) (citing *Akzo N.V. v. United States Int'l Trade Comm'n*, 808 F.2d 1471, 1479 n.11 (Fed. Cir. 1986)). "An anticipatory reference . . . need not duplicate word for word what is in the claims." *Standard Havens Prods. v. Gencor Indus.*, 953 F.2d 1360, 1369 (Fed. Cir. 1991).

Here, the second part of Ashmore cited by the Examiner discloses a "marker **141** [a]s a number . . . that the mobile device user can enter into his or her mobile device **130** to request content. Preferably, the marker **141** is a short number, such as '42,' that is easy to read, remember, and enter into the mobile device **130.**" (Col. 2, ll. 49-54.) Because the marker is preferably a short number, we agree with the Examiner's finding that the marker constitutes a code number.

A "signal from the mobile device **130** containing the marker is transmitted **420** to the mobile base station **122**, which then forwards **430** the data in the signal to the context server **126**. The context server **126** determines the contextual information and returns **431** it to the gateway **124.**" (Col. 8, ll. 26-31.) "The gateway **124** forms a message including . . . marker **141** and the location of the mobile device **130**, and sends **440** a message to the content server **110** via the network **101.**" (*Id.* ll. 31-35.) "In response to receiving the message, the content server **110** uses the contextual information to map the marker **141** to a domain and then queries **450** the content database **111** for the content corresponding to the marker in the mapped domain." (*Id.* ll. 45-49.) "[T]he content database **111** may return a URL pointing to a location on the Internet that the mobile device **130** can access to retrieve this content." (*Id.* ll. 51-53.)

As aforementioned, the marker constitutes a code number. Because the content database maps the marker to a URL pointing to a location on the

Internet that the mobile device can access to retrieve content, we find that the marker also represents a particular Internet address.

V. ORDER

For the aforementioned reasons, we affirm the rejection of claim 1 and of claims 2-9, 18-38, 47-68, and 77-93, which fall therewith.

"Any arguments or authorities not included in the brief or a reply brief filed pursuant to [37 C.F.R.] § 41.41 will be refused consideration by the Board, unless good cause is shown." 37 C.F.R. § 41.37(c)(1)(vii).

Accordingly, our affirmance is based only on the arguments made in the Briefs. Any arguments or authorities omitted therefrom are neither before us nor at issue but are considered waived. *Cf. In re Watts*, 354 F.3d 1362, 1367 (Fed. Cir. 2004) ("[I]t is important that the applicant challenging a decision not be permitted to raise arguments on appeal that were not presented to the Board.")

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

clj

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